

Plaintiff's Exhibit E

Plaintiff's September 14, 2020 Letter to Defendants
Re: Defendants' Request for a Blanket "Confidential"
Designation

Sept. 14, 2020 Ltr. to Paul Weiss

September 14, 2020

VIA E-MAIL

Jeh Johnson and Susanna Buerger
Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, New York 10019-6064

Re: *Cardwell v. Davis Polk & Wardwell LLP*, et al. (1:19-cv-10256-GHW)

Dear Jeh Johnson and Susanna Buerger,

On multiple occasions now, including our July 31 letter, we've asked Defendants to not make last minute unilateral demands. We are once again in a similar position, as Defendants went from March 2 until September 10 without mentioning to Plaintiff that they sought confidential treatment of their entire set of discovery responses.

As a courtesy, we granted an extension to Defendants last week because Defendants requested relief from the September 10 deadline to serve verified interrogatory responses. As you know, those responses were due today based on that extension.

Then, like now, we are not interested in dinging Defendants on a timing technicality. However, Defendants' eleventh-hour request to categorically treat all of their responses as Confidential (as defined in the model protective order) is unnecessarily broad and contrary to my client's interests and claims.

Defendants have asked Plaintiff to agree to a sweeping designation (unlike the interim designation that Plaintiff expresses) without attempting to make even a threshold showing that all of their responses contain the type of commercially sensitive, proprietary, or other information contemplated by such designation under the model protective order.

Without this basic information, and given Defendants' improper attempt to burden shift (by improperly forcing Plaintiff to challenge Defendants' overbroad designations on the back end), Defendants' request is improper.

Accordingly, we intend to provide our insert to a joint letter by Wednesday, as previously discussed and agreed upon by the parties. Since the joint letter already contemplates issues and disputes related to the protective order, it can include Defendants' request for a blanket designation and Plaintiff's opposition to such request.

Sincerely,

/s/ David Jeffries

David Jeffries